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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/448,617	11/23/1999	DALE E. OLSEN	1416-FBI	5242

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EXAMINER

CHRISTMAN, KATHLEEN M

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 02/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/448,617	OLSEN, DALE E.	
	Examiner	Art Unit	
	Kathleen M Christman	3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16, 22-37, 43, 49, 50, 52 and 60-65 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16, 22-37, 43, 49, 50, 52 and 60-65 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

In response to amendment filed 10/29/2004, claims 1-16, 22-37, 43, 49, 50, 52 and 60-65 are currently pending.

Drawings

1. The drawings were received on 10/29/2004. These drawings are approved.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

2. Claims 1-16, 22-37, 49, 50, 52 and 61-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over James et al (US 5864844) in view of Best (US 5358259) further in view of Kawamoto et al (US 5367454). James et al discloses an interactive apparatus, which includes a plurality of video vignettes and audio responses, a plurality of statements to be selected by the user and logic means for relating each of the statements to be selected by the user with the audio responses and video vignettes. In particular the James et al patent discloses a system in which a plurality of possible statement options

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are given to the user, each of the statements is related to a response that is constructed of a series of prerecorded audio and video samples, see col. 6: 46-col. 7:47. The computer has a logic program referred to by James et al as the inference engine. Regarding claims 2, the personality profile of applicant's invention can again be interpreted as the "inference engine" disclosed by James et al. The inference engine receives the queries selected by the user and responds with a proper audio and video response. Claims 14 and 15 relate in scope to claims 1 and 2, respectively, and are rejected for the same reasons. Regarding claims 4-6, these claims are directed to providing selections to the user based on prior selections made by the user. Specific to claims 6, the broadest in scope, James et al discloses that a user will receive further questions that can be asked based on the prior series of questions in col. 11: 42-61. Similarly this applies to claims 4 and 5, which allow for alternative statements based on prior history of either audio or video, respectively. As the system interface of James et al uses both previously selected audio and video in its decision it would be obvious to one of ordinary skill in the art to separate this requirement. Claims 9 and 10 are similar in scope and are rejected for the same reasons. Regarding claim 43, the physical structure of the system that the James et al system may be run on is shown in col. 5: 7-23, under the heading "computer system".

James et al does not clearly describe that each statement can have a "plurality of different audio responses and video vignettes associated" with it. This is essentially allowing for multiple responses to the same question or scene. Best teaches this concept in col. 5: 49-57. In addition Best teaches the benefits of this feature in a system, including making the game more interesting and that it provides a more emotional and realistic environment for the user. Given these reasons it would have been obvious to one of ordinary skill in the art to provide multiple answer possibilities to a single question in the James et al system.

Neither James et al nor Best teaches the limitation of a personality profile emulator comprising an emotional model of said simulated person for controlling the selection of one of said plurality of audio responses and one of said plurality of video responses to user selected ones of said plurality of statements, as in claims 1, 14, 43 and 61-63. Kawamoto et teaches a personality profile emulator including an emotional model, said emotional model determining the direction and magnitude of change

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between a plurality of emotional states of the simulated person in response to a statement made by the user, see col. 2: 13-22, col. 5: 11-17, 38-41 and 47-53. It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement emotional model of Kawamoto into the systems of either Best et al or James et al, so as to create a more realistic and diverse training environment, an advantage taught by Kawamoto et al in col. 1: 65-68.

Claims 22, 23, 25-27, 30, and 31 correspond to claims 1, 2, 4-6, 9, and 10 above, and thus there are rejected for the same reasons as shown above, and claim 50 is dependent on claim 14, adding the limitation that the questions from the user must be spoken by the user. James et al provides for a microphone in the computer structure of the system implying that there may be verbal inputs but does not clearly state that the inputs are verbalized. Kawamoto et al teaches an interactive system in which the user must verbalize their responses, see Fig. 2 element 211.

Claims 35 and 36 correspond in scope to claims 22 and 23 and are rejected for the same reasons. Regarding claims 49 and 52, James et al does not specifically show that the system is voice activated. See the above cited section of Kawamoto et al.

Regarding claims 7, 8, 12, 13, 28, 29, 33, and 34, neither James et al, Best, or Kawamoto directly teaches that a "performance score" is created. However, both systems are design to teach the user about interpersonal relationships. Scoring a user in the skill or skills they are developing is old and well known in the art. It would therefore be obvious to include this well-known feature into either of the systems.

Regarding claims 3, 16, 24, and 37, James et al does not specifically disclose that a response from the simulated person will be associated with the failure of a user to respond. Kawamoto et al teaches the in col. 4: 35-39 and col. 6: 13-19. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the prompts in to the James et al and Best systems so that an unfamiliar user would be able to realize when they were being requested to input an answer.

3. Claims 60, 64 and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harless (US 5730603) in view of Best (US 5358259) further in view of Kawamoto et al (US 5367454). Harless

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clearly shows a system, method and computer readable medium which includes simulating a person, creating a plurality of statements to be verbalized by a user, creating means for recognizing the verbalized statement, creating a plurality of audio responses for articulation by the simulated person, creating logic means for interrelating each of said audio responses, said simulated person, and said statements to be verbalized by the user, see Figures 1, 4, 5 and 6.

Harless do not clearly describe that each statement can have a "plurality of different audio responses and video vignettes associated" with it. This is essentially allowing for multiple responses to the same question or scene. Best teaches this concept in col. 5: 49-57. In addition Best teaches the benefits of this feature in a system, including making the game more interesting and that it provides a more emotional and realistic environment for the user. Given these reasons it would have been obvious to one of ordinary skill in the art to provide multiple answer possibilities to a single question within the Harless system.

Neither Harless nor Best teaches the limitation of a personality profile emulator comprising an emotional model of said simulated person for controlling the selection of one of said plurality of audio responses and one of said plurality of video responses to user selected ones of said plurality of statements, as in claims 1, 14, 43 and 61-63. Kawamoto et al teaches this in col. 4: 35-39 and col. 6: 13-19. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the prompts in to the James et al and Best systems so that an unfamiliar user would be able to realize when they were being requested to input an answer.

Response to Arguments

4. Applicant's arguments filed 10/29/2004 have been fully considered but they are not persuasive.

Applicant has only submitted arguments directed towards the Kawamoto et al reference. No arguments have been made against the teachings of James, Harless or Best. Regarding the Kawamoto et al reference, the applicant argues generally that the reference fails to teach the emotional model being used to select both a video and audio response of the agent. The applicant simplifies the Kawamoto et al

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system as merely using an emotional model to determine facial expressions. The examiner agrees that the emotional model is used, in part, in determining the facial characteristics of an agent model. However, this is done through the selection of proper video segments associated with the systems chosen audio response, see col. 4: 40-43. Kawamoto further teaches starting at col. 4: 27: "while interacting with the user with the aid of synthesized speech via the speech synthesizing unit 218, the scheduling action unit 213 plans to move or erase a schedule in line with the user's intention. At this time, a request for activation of certain basic emotion as what is based on the user's intention is sent to the artificial emotion system 215. Conversely, the pseudo-emotional condition is also transmitted to the scheduling action unit 213, whereby it affects the agent's action." Kawamoto describes in col. 5: 12-17, the agent's action consists of both the video and audio outputs of the system. Given these teachings, and those areas further cited in the rejections above, it is the examiner's position that Kawamoto clearly teaches the emotional model as claimed by applicant and that in combination with James, Harless and/or Best renders obvious the currently pending claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen M Christman whose telephone number is (571) 272-4435. The examiner can normally be reached on M-F 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272-7147. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.


Kathleen M. Christman
February 8, 2005


XUAN M. THAI
PRIMARY EXAMINER
AU3713